Oral Testimony to House Oversight and Government Reform Committee

12 December 2013

Eric Novack, MD

Mr. Chairman, members of the committee, thank you for having me back again. When President Obama made the case in 2009 that the US needed to lower costs and improve access to healthcare, I agreed with him. On June 23, 2009, I told the House Subcommittee on Health that, "the system within which you are allowed to provide care is as important to the delivery as the people providing it. So if we are not willing to put the same level of attention and same level of attention to detail… into designing the system, it is doomed to fail."[1]

During that same hearing, Congressman Dingell announced that he "would never presume to tell somebody how to take out an appendix or to replace a knee, but [he does] know a little bit about drafting law. [He has] been doing it for about 50 years…"[2]

Since then, President Obama and the Democrats' health care law has failed to deliver on nearly every promise, including "if you like your doctor, you can keep her", and "if you like your health care, you can keep it."

The problems and failings certainly extend to Medicaid.

In February 2013, the Obama administration made clear their position about access to care for Medicaid patients in a court filing in the 9th Circuit—"there is no general mandate under Medicaid to reimburse providers for all or substantially all of their costs."[3] As Children's Defense Fund President Marian Wright Edelman said at the June 23, 2009 hearing, talking about a child on Medicaid who died, "his mother… couldn't get them [the dentists] to take him because of the low Medicaid… reimbursement rates."[4]

In addition, Obamacare architect Jonathan Gruber's research[5] and left economist Austin Frakt's research[6] suggest between 50%-80% of all new

[1] http://democrats.energycommerce.house.gov/sites/default/files/documents/Final-Transcript-Health-Comprehensive-Health-Care-Reform-Discussion-Draft-2009-6-23.pdf (page 193 of pdf, page 183 of testimony)
[2] Ibid (page 186 of pdf, page 176 of testimony)
[3] http://www.nytimes.com/2013/02/26/us/politics/states-can-cut-back-on-medicaid-payments-administration-says.html?_r=0
[4] http://democrats.energycommerce.house.gov/sites/default/files/documents/Final-Transcript-Health-Comprehensive-Health-Care-Reform-Discussion-Draft-2009-6-23.pdf (page 192 of pdf, page 182 of testimony)
[5] http://www.nber.org/papers/w12858

Medicaid enrollees will lose private insurance as it is crowded out by Medicaid.

And in Arizona, according to a 2013 Milliman report[7], most hospitals receive 70% of Medicare rates for Medicaid—which is unsustainable.

While some will benefit from the expansion, the losers will far outnumber the winners. To respond to Congressman Dingell-- he may not be saying how the surgery gets done, but he is certainly impacting who will get it and when. But the access problems do not end with Medicaid…

As I wrote in August 2010, the health care exchanges are really just a variation of Arizona's 100% Medicaid managed care system[8], which, the last time it was expanded, has actually cost over 4 times what was predicted by supporters.[9]

The policies available through the exchanges, even with subsidies are, for many, far more expensive than Democrats and the President promised… and many have higher deductibles, copays, and coinsurance—and very narrow provider networks.

OrthoArizona, the group of over 70 musculoskeletal providers I am in, does not have a single exchange contract by choice. One reason is the required 90-day grace period for policies. This means we can provide 2 months of care thinking the patient has coverage, and then we are 'on the hook' for payment, and the insurers have no responsibility. And OrthoArizona is not alone.

At least one Phoenix area hospital system does not yet have a single exchange contract—in large part because the rates being offered are at or near Medicaid rates.

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[6] http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1782210
[7] http://www.azahcccs.gov/commercial/Downloads/rates/MillmanAHCCCSReport20120628.pdf
[8] http://www.washingtontimes.com/news/2010/aug/4/the-arizona-experiment/
[9] http://goldwaterinstitute.org/10-reasons-to-decline-medicaid-expansion

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I recently spoke with a retired professor at an esteemed NY Medical school. She feels Obamacare is morally right. But she notes that none of her personal doctors take Medicare, let alone Medicaid. Unwilling to make a moral stand and not go to those doctors, the professor blames the doctors—and seeks to have government force them and hospitals accept whatever payment the government decides, even if they go out of business doing so.

I strongly suspect we will be hearing some variation of this very from the administration very soon.

Those who do not wish to defend the failures of the law are quick to say, "well, what is your solution?" This hearing is not focused on alternatives, but I want to quickly mention 3 areas that should contribute to the many larger proposals that do exist.

This year, Arizona passed a first in the nation price transparency law. The law extends the already 'only in the nation' state constitutional right to spend your own resources for legal health care services and also ends direct pay price discrimination based upon insurance status. This law goes into effect on January 1, 2014.

OrthoArizona, since its inception in 1994, has focused on quality and utilization and cost. We have shown repeatedly with payers that local, same specialty physician accountability is a reproducible and effective way to lower health care costs while maintaining high quality orthopedic care.

Intelligent InSites, a software company with whom I do work, is a company that provides a platform that takes automatically collected data and provides analytics on that data combined with other sources of information. Getting better, more accurate, unbiased information in the hands of everyone from transporters in the hospital to doctors to health care system CEOs to you—the top policy makers in the country—has never been more needed.

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Ultimately, we must move to policies that ensure patients and families maintain control over their health care decisions, and that includes access to quality physicians.